

**TOWN AND COUNTRY PLANNING ACT 1900 SECTION 78 APPEAL AT 15
GEORGE STREET, CHIRK , WREXHAM**

COUNCILS STATEMENT OF CASE

**PLANNING REF: P/2022/0004
PEDW REF: CAS-02184-X3V7B5**

1.0 THE SITE

- 1.1 The Appeal site is located on land to the rear of 15 George Street, Chirk, Wrexham, LL14 5HS. The site is located inside of a defined settlement limit.

2.0 PROPOSAL

- 2.1 P/2022/0004 – Erection of Dwelling and Formation of Vehicular Access

- 2.2 Planning permission was refused on 26.08.2022 for the following reasons:

2.2.1 By virtue of the proposed first floor habitable room windows (bedroom and study), facing north, having obscure glazed windows as the only source of outlook from these rooms, the design would result in a substandard level of residential accommodation. This would be to the detriment of the residential amenities of the future occupiers of the development, contrary to policy GDP1 of the Wrexham Unitary Development Plan and Local Planning Guidance Note No. 21 'Space around Dwellings'.

2.2.2 By virtue of the discharge of wastewater from the proposed development, adding phosphorus into the River Dee and Bala Lake Special Area of Conservation (SAC), the proposed development would have a significant effect upon the SAC, contrary to Policy EC6 of the Wrexham Unitary Development Plan, paragraph 6.4.18 of Planning Policy Wales, Future Wales and TAN5.

3.0 PLANNING HISTORY

- 3.1 P/2022/0797 - Erection of Dwelling and Formation of Vehicular Access – Decision Pending.

4.0 LOCAL AND NATIONAL PLANNING CONTEXT

- 4.1 Planning Policy Wales (PPW) Edition 11.
- 4.2 The site lies within the Chirk settlement limit, as defined in the current development plan for the area, which is the Wrexham Unitary Development Plan (UDP) 2005. Policies EC6, H2 and GDP1 of the Wrexham UDP are relevant to this appeal. Also relevant is Local Planning Guidance Note No. 21 'Space around Dwellings'. Copies of the relevant UDP policies and guidance notes are contained within the submitted questionnaire bundle.

5.0 COUNCIL'S STATEMENT OF CASE

5.1 Residential Amenity

5.1.1 The proposed development is within a defined settlement limit where Policy H2 states the development is acceptable in principle, subject to compliance with UDP Policy GDP1. The proposal complies in terms of the protection of the character and appearance of the site, and the street scene.

5.1.2 The proposal complies in terms of the protection of the character and appearance of the site, and the street scene. However, the proposed design of the property is not acceptable in regards to the standard of residential amenity afforded to the future occupiers of the site. This is because two of the habitable room windows on the first floor (rear) are almost completely obscurely glazed, to prevent overlooking leading to a loss of privacy to the adjoining properties. This would be to the detriment of the residential amenities of the future occupiers of the development, as there would be no outlook from the habitable rooms, and the design would therefore result in a substandard level of residential accommodation.

5.1.3 The obvious solution would be to use plain glass however, as mentioned above, this would lead to overlooking of the surrounding private garden areas and be detrimental to the occupiers of the existing properties due to a loss of privacy. The Council did not therefore propose this as a solution to overcome these concerns with the design, as part of the application process. A request was made by the case officer for the design be amended to resolve this issue, however the Applicant declined to amend the scheme.

5.1.4 As mentioned within the Planning History Section (3.1) there is a second application at this site, reference P/2022/0797. This application is currently being held in abeyance due to the current issues with the impact of drainage upon the SAC. The elevations and floor plans of this scheme are the same as the amended plans shown at section 5.3 on page 7 of the Appellant's Statement Ref: 588-249-CS0. These plans show a reconfiguration of the internal layout and design of the window openings, which would safeguard the amenity of both the occupiers of the existing properties, and the future occupiers of the development. The Council confirms that there would be no objection to the granting of planning permission for the amended design, which forms part of the application being held in abeyance (P/2022/0797), once the matters relating to the drainage have been resolved.

5.2 River Dee and Bala Lake SAC

5.2.1 In January 2021, Natural Resources Wales (NRW) issued a Planning Position Statement advising Local Planning Authorities across Wales that development which is likely to increase the amount of phosphorous in the catchment area of a river designated a SAC could lead to damaging effects on the SAC. The Position Statement also explained that developments with the potential to increase phosphorous levels in an SAC need to be subject to a Habitat Regulations Assessment (HRA) in order to determine whether they are likely to have a significant effect on the SAC. As a result of this NRW Position Statement, the Local Planning Authority would only be able to conclude that the development proposed would have no adverse impact upon the SAC if sufficient information was provided to demonstrate that it would be 'phosphorous neutral'.

5.2.2 The Appellant proposes within the Appeal documents, the installation of a Sewage Treatment Plant (STP) to pre-treat wastewater to remove phosphorus before discharging into the public foul sewer. This site is capable of being served by a public sewer. Accordingly and in compliance with the requirements of Circular 008/2018, there are no grounds which would justify the grant of planning permission with alternative foul drainage arrangements.

5.2.3 The Council understands that there are concerns around chemical pre-treatment due to the metals used in the Phosphorus stripping adversely impacting on the operation of the treatment works, both hydraulic and biological performance. There are also difficulties with effective monitoring and maintenance of a private systems. Further, it is unlikely that pre-treatment can remove all phosphorous from the foul water prior to entering the public sewer.

5.2.4 The construction of a new dwelling on site will likely result in an increase in the discharge of waste water from the proposed development, adding phosphorus into the River Dee and Bala Lake SAC, thereby causing harm contrary to Policy EC6 of the Wrexham Unitary Development Plan.

6.0 **CONCLUSION**

6.1 For the reasons set out above, the Council is of the opinion that the development proposed under planning reference P/2022/0004 does not accord with character of the site, contrary UDP Policy GDP1, and is therefore also contrary to UDP policy H2. The development would cause harm to the SAC and would therefore also run contrary to UDP Policy EC6. The Inspector is therefore respectfully requested to dismiss the Appeal. Should the Appeal be allowed, imposition of the following planning conditions is suggested:

- 6.1.1 The development hereby permitted shall be commenced before the expiry of five years from the date of this permission.
Reason) To comply with Section 91(3) of the Town and Country Planning Act, 1990.
- 6.1.2 The development shall only be carried out in strict accordance with the details shown on the approved drawings nos. 201, 202 and 204, and as contained within the application documentation.
Reason) To comply with section 71ZA (2) of the Town and Country Planning Act 1990.
- 6.1.3 Prior to their use on the development samples of all external facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in strict accordance with such details as are approved.
Reason) To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies GDP1 and PS2 of the Wrexham Unitary Development Plan.
- 6.1.4 Prior to first use of the vehicular access hereby approved, the access shall be surfaced with hard bound materials (e.g. bituminous macadam) for a minimum distance of 5 metres behind the adjoining highway.
Reason) In the interests of highway safety in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.
- 6.1.5 There shall be no gates or other means of enclosure across the vehicular access point within 5 metres of the highway boundary.
Reason) In the interests of highway safety in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.
- 6.1.6 The new vehicular access onto the highway known as 'West View' hereby approved shall be a minimum width of 4.8 metres.
Reason) In the interests of highway safety in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.
- 6.1.7 The new vehicular access onto the highway known as 'George Street' hereby approved shall be a minimum width of 7.2 metres.
Reason) In the interests of highway safety in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.
- 6.1.8 The vehicular access(es) hereby approved shall take the form of a dropped vehicular crossing.
Reason) In the interests of highway safety in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.

6.1.9 Prior to first use of the development hereby approved the vehicular access shall provide visibility splays of 2.4 metres x 25 metres in both directions measured to the nearside edge of the adjoining highway. Within these splays there shall be no obstruction in excess of 1 metre in height above the level of the nearside edge of the adjoining highway. The splays shall thereafter be permanently retained clear of any such obstruction to visibility.

Reasons) To ensure that adequate visibility is provided at the proposed point of access to the highway in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.

6.1.10 No part of the development shall commence until full details of both hard and soft landscape works, to include some native planting and a scheme of Net Biodiversity Benefit (NBB) has been submitted to and approved in writing by the Local Planning Authority. The plan shall include a timescale for the implementation of works, and shall provide for ecological improvement / habitat creation and enhancement in the soft landscape areas for the benefit of biodiversity conservation specifically tailored to the landscape features.

Reason) To ensure that the development has a positive benefit for biodiversity i.e. a better outcome than if the site were left undeveloped, which will be in place for the lifetime of the development, in accordance with Policies GDP1 and EC6 of the Wrexham Unitary Development Plan.

6.1.11 The landscaping and NBB scheme submitted and approved in connection with condition no. ?? shall be fully implemented in all respects within the agreed timescale and in strict accordance with the approved scheme.

Reason) To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies GDP1 and PS2 of the Wrexham Unitary Development Plan.

6.1.11 The landscaping scheme as carried out in connection with condition no. ?? shall be permanently retained. Any planting becoming severely damaged or seriously diseased, or is in poor physiological condition and/or are removed without the written permission of the Local Planning Authority shall be replaced with trees or shrubs of similar size and species to those originally required to be planted and within a timescale all to be submitted to and approved in writing by the Local Planning Authority.

Reason) To ensure a satisfactory standard of appearance of the development in the interests of the visual amenities of the area in accordance with Policies GDP1 and PS2 of the Wrexham Unitary Development Plan.

- 6.1.13 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting that Order with or without modification), any window or opening in the elevation facing North, shall only be glazed or re-glazed using obscure glass which shall thereafter be permanently retained.
Reason) To protect the amenities of the occupiers of nearby properties in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.
- 6.1.14 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting that Order with or without modification), no windows, dormers or other openings shall be inserted in any elevation of the building, including the roof.
Reason) To protect the amenities of the occupiers of nearby properties in accordance with Policy GDP1 of the Wrexham Unitary Development Plan.
- 6.1.15 The vehicular parking area as shown on approved drawing number 204 – Proposed Parking shall be fully laid out, surfaced and drained prior to first use of the development. This parking area shall thereafter be permanently retained and kept free of any obstruction, and made available solely for the parking of motor vehicles at all times.
Reason) To provide for the parking of vehicles clear of the highway in accordance with Policies GDP1 and T8 of the Wrexham Unitary Development Plan